

**MARC WHITEHEAD & ASSOCIATES, L.L.P.**  
**ATTORNEYS AT LAW**

Marc Whitehead, Esq.  
*Board Certified*  
*Personal Injury Trial Law*  
*Texas Board of Legal Specialization*

*Board Certified*  
*Social Security Disability Law*  
*National Board of Social Security*  
*Disability Advocacy*

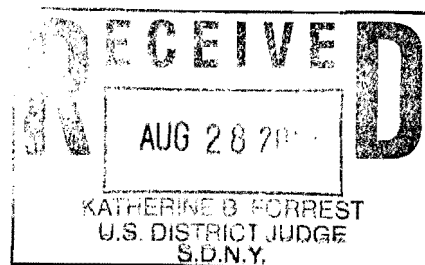
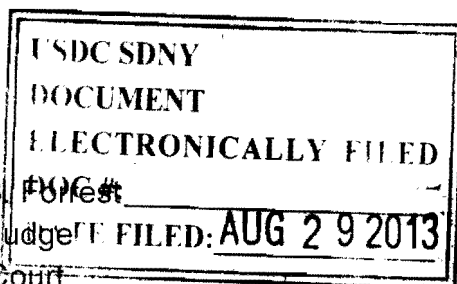
**5300 Memorial Drive, Suite 725**  
**Houston, Texas 77007**

Telephone: (713) 228-8888  
Facsimile (713) 225-0940  
Toll Free: (800) 562-9830  
www.marcwhitehead.com  
marc@marcwhitehead.com

Valerie Norwood, Esq.  
Anthony Vessel, Esq.

August 27, 2013

Honorable Katherine B. Forrest  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 730  
New York, NY 10007



RE: *Tuminello v. Aetna Life Ins. Co.*, Civil Action No.: 13-cv-0938 (KBF)(JCF)

Dear Judge Forrest:

This office represents Plaintiff Joseph Tuminello ("Mr. Tuminello") in the above-referenced matter. We write to request an extension of the deadlines to file dispositive motions. Defendant's counsel has consented to this request. No prior requests for an extension of time to file dispositive motions have previously been made by either party.

The reason for this request is as follows. Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendant Aetna has filed a motion for summary judgment on the grounds that Plaintiff's claims for long-term disability (LTD) benefits are barred by the contractual limitations period of the applicable group LTD policy. Plaintiff has filed an opposition brief, and Aetna will be filing a reply brief on September 3, 2013. In the meantime, Plaintiff has filed a motion to stay the proceedings in light of a pending U.S. Supreme Court case involving a similar issue. The motion to stay has not yet been decided by the Court.

Based on parties' previous litigation of ERISA long-term disability cases, the parties requested in their case management report that this case be resolved through motions for summary judgment in the form of cross-motions on the administrative record (and subsequent cross-objections and replies). By the scheduling order issued on April 18, 2013, the Court set a deadline of September 9, 2013, for the parties to file

dispositive motions (i.e., their respective cross-motions for judgment on the administrative record).

Regardless of whether or not the Court decides to stay the proceedings, the Court's decision on Aetna's Limitations MSJ could be dispositive of the case, which would obviate the need for the parties to file cross-motions for judgment on the record. It therefore would not be an efficient use of time and resources by either of the parties to prepare and file cross-motions for judgment on the record until the Court has ruled on the pending Limitations MSJ or the pending motion to stay. The parties therefore request that the Court extend the deadline for the parties to file dispositive motions until 45 days following the Court's decision on the Limitations MSJ, should any claims remain following that ruling.

This is the parties' first request for an extension of time as to this deadline. Defendant's counsel has reviewed this letter and authorized the undersigned to file it jointly for both parties.

Therefore, the parties respectfully request that this extension be granted and that the deadline set forth in the scheduling order be adjusted accordingly.

Respectfully submitted,

Marc S. Whitehead

ordered

Application granted.

K. B. For

us DJ

8/29/13